



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Lake Erie Quadrangle National Marine Sanctuary

**AGENCY:** Office of National Marine Sanctuaries (ONMS), National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of intent to hold public scoping meetings and prepare a draft environmental impact statement; request for comments.

**SUMMARY:** In accordance with the National Marine Sanctuaries Act (NMSA) and National Environmental Policy Act (NEPA), and based on the area's qualities and boundaries described in the community-based nomination on December 31, 2015 (<https://nominate.noaa.gov/>), NOAA is initiating a scoping process to consider designating a national marine sanctuary in the eastern Lake Erie adjacent to Pennsylvania. The nomination provides a description of the cultural and historical resources in the region, the potential benefits of a national marine sanctuary designation, recommendations for management of the sanctuary, and a proposed sanctuary boundary. As a first step in this scoping process, NOAA invites comments on the factors that will contribute to its determination of whether and how to designate the area as a national marine sanctuary. The results of this scoping process will inform NOAA's next steps in the designation process, which would include the preparation and release of draft designation documents, as well as the formulation of action alternatives for the draft environmental impact statement (DEIS). This scoping process will also inform the initiation of consultations with Indigenous Nations and Tribes, Federal, State, and local agencies, and other interested parties, as appropriate. In support of the scoping process, the nomination package and additional information regarding the qualities of the Lake

Erie Quadrangle area can be found at <https://sanctuaries.noaa.gov/lake-erie>.

**DATES:** *Comments due:* [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

*Public Meetings:* NOAA will host three public meetings during the scoping process, two virtual and one in-person. The in-person scoping meeting will occur at the following day and time:

- Erie, Pennsylvania

Date: Wednesday, June 21, 2023

Location: Erie County Public Library- Blasco

Address: H.O. Hirt Auditorium

160 E Front St, Erie, PA 16507

Time: 6:30pm-8:00pm Eastern Time

The virtual public scoping meetings will occur at the following dates and times:

- Tuesday, June 27, 2023, 2:00pm- 3:30pm Eastern Time
- Wednesday, June 28, 2023, 6:30pm- 8:00pm Eastern Time

Please check <https://sanctuaries.noaa.gov/lake-erie> for meeting links and the most up-to-date information, should plans for these public meetings change. NOAA may end a virtual or in-person meeting before the time noted above if all participants have concluded their oral comments.

**ADDRESSES:** You may submit comments, identified by docket number NOAA-NOS-2023-0039, by any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov> and enter “NOAA-NOS-2023-0039” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comment.
- Mail: Send any hard copy public comments by mail to: Ellen Brody, NOAA Office of National Marine Sanctuaries, 4840 South State Rd, Ann Arbor, MI

48108. Note the docket number at the top of the comment.

- Public Scoping Meetings: Provide oral comments during public scoping meetings, as described under **DATES**. Webinar registration details and additional information about how to participate in these virtual and in-person public scoping meetings is available at [www.sanctuaries.noaa.gov/lake-erie](http://www.sanctuaries.noaa.gov/lake-erie)

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personally identifiable information (for example, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter will be publicly accessible. NOAA will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Comments that are not responsive or contain profanity, vulgarity, threats, or other inappropriate language will not be considered.

**FOR FURTHER INFORMATION CONTACT:** Ellen Brody, (734) 741-2270, [ellen.brody@noaa.gov](mailto:ellen.brody@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background on the Area Under Consideration**

The National Marine Sanctuaries Act, as amended (NMSA), 16 U.S.C. 1431 *et seq.*, authorizes the Secretary of Commerce (Secretary) to designate and protect as national marine sanctuaries areas of the marine environment that are of special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or aesthetic qualities. A primary objective of the NMSA is to protect the resources of the National Marine Sanctuary System. Day-to-day management of national marine sanctuaries has been delegated by the Secretary to ONMS.

In December 2015, Erie County, Pennsylvania, submitted a nomination to NOAA through the Sanctuary Nomination Process (79 FR 33851), proposing consideration of the Lake Erie Quadrangle as a national marine sanctuary to conserve its nationally significant underwater cultural and historical resources and to expand upon existing local and state efforts to study, interpret, and promote them. Along with support from the Governor of Pennsylvania, the nomination was endorsed by a diverse coalition of organizations and individuals at local, State, and national levels including elected officials, agencies, businesses, recreational users, local charters, academic organizations, tourism organizations, non-profit organizations, economic development organizations, historical societies, and education groups. In February 2016, NOAA added the Lake Erie Quadrangle proposal to its inventory of successful nominations that are eligible for designation, and extended it on the inventory in March 2021 after a required five-year review of the nomination (87 FR 11049).

NOAA is initiating the process to designate this area as a national marine sanctuary based primarily on the information included in the nomination. NOAA's goal in considering the designation of the Lake Erie Quadrangle National Marine Sanctuary (LEQNMS) in Lake Erie is to recognize the national significance of the area's historical, archaeological, and cultural resources and to manage the area as part of the National Marine Sanctuary System. If NOAA finalizes the designation, the agency would delineate the boundaries of the sanctuary; manage the area as a part of the National Marine Sanctuary System under NMSA; establish sanctuary regulations; and implement a management plan.

The area being considered for designation as a national marine sanctuary in Lake Erie includes approximately 740 square miles (1917 square kilometers) of lake waters and bottomlands. The area would be adjacent to approximately 75 miles (120 kilometers) of coastline bordering Erie County, Pennsylvania, that extends westward to

the Ohio state line, northward to the international border with Ontario, Canada, and eastward to the New York State line. The nomination proposes to exclude the Erie Port from the sanctuary boundaries to ensure compatible use with shipping and other commercial activities.

This area represents a historically rich region where the long relationship between human activity and the maritime environment has created meaning and a sense of place, which is expressed and preserved in a wide variety of maritime cultural resources from sacred places and cultural practices to lighthouses and historic shipwrecks. Together, these tangible and intangible elements form a rich maritime cultural landscape. Lake Erie hosted one of the busiest waterways of the mid-19th century. Pennsylvania supported the Great Lakes' largest commercial fishing fleet during the 19th century, some of the earliest shipbuilding on the Great Lakes, and major naval yards during the War of 1812.

Nearly every type of vessel that operated on the Great Lakes during the historic period is represented in the area being considered for sanctuary designation. Based on historical records, 196 vessels may have sunk within the Pennsylvania waters of Lake Erie, and 35 of these shipwrecks have been identified. The known shipwrecks span from the 1838 steamboat *Chesapeake* to speedboats, tugs, barges, and workboats lost before 1940. The collection includes schooners, brigs, and barks; barges and schooner barges; dredges and sand suckers; fishing tugs and trawlers; and sidewheel steamboats and propellers. This area also includes the potential for submerged prehistoric sites and historic properties that may be of religious and cultural significance to Indigenous Nations and Tribes.

Designation of a national marine sanctuary under the NMSA would allow NOAA to complement the Commonwealth of Pennsylvania's efforts to preserve and interpret the area's marine resources, including its collection of nationally significant

historic shipwrecks and other underwater cultural resources. NOAA could use its research and monitoring assets to further locate, document, and monitor the area's significant cultural resources, expand education and outreach to interpret sanctuary resources for the public, and promote the responsible use of sanctuary resources. Furthermore, a sanctuary has the potential to increase tourism and economic opportunities in local coastal communities.

NOAA plans to establish a pre-designation sanctuary advisory council to bring members of the local community together to provide advice to NOAA, to serve as a liaison with the nominating community, and to assist in guiding NOAA through the designation process. NOAA will publish additional information on the pre-designation Sanctuary Advisory Council at a later date.

## **II. Items of Particular Interest During the Public Scoping Process**

While the public may comment on all matters viewed as relevant to the potential designation of a national marine sanctuary in Lake Erie, NOAA is requesting input on the following specific topics to help guide the scoping process:

- boundary alternatives for the proposed sanctuary;
- the location, nature, and value of the cultural and historical resources in the area under consideration;
- specific threats to these resources;
- information on the Indigenous heritage of the area;
- the potential socioeconomic, cultural, and biological impacts resulting from designation as a national marine sanctuary;
- the non-regulatory actions NOAA should prioritize within its draft management plan for the proposed sanctuary;
- the regulatory framework most appropriate for management of the proposed sanctuary;

- the benefits to the economy of the region, including promoting sustainable tourism and recreation; and
- a permanent name for the proposed sanctuary.

Comments may be submitted to NOAA by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] using the methods described in **ADDRESSES**. NOAA will host public scoping meetings during the public comment period, as described under **DATES**.

### **III. National Marine Sanctuary Designation Process**

The national marine sanctuary designation process includes the following well-established and highly participatory stages:

1. Public Scoping — Collection and characterization of initial public comments on the proposed designation;
2. Preparation of Draft Documents — Preparation and release of draft designation documents, including: a DEIS, prepared pursuant to NEPA, that identifies boundary and/or regulatory alternatives; a draft management plan; and a notice of proposed rulemaking to define proposed sanctuary regulations. Draft documents would be used to initiate consultations with Indigenous Nations and Tribes, Federal, State, and local agencies, and other interested parties, as appropriate;
3. Public Comment on Draft Documents —Through public meetings and in writing, allow for public review and comment on a DEIS, draft management plan, and notice of proposed rulemaking;
4. Preparation of Final Documents — Preparation and release of a final environmental impact statement (FEIS); final management plan, including a response to public comments; and a final rule.
5. Review Period — The sanctuary designation and regulations would take effect after the end of a review period of forty-five days of a continuous session of Congress.

During this same period, should the designation include State waters, the Governor of the State has the opportunity to concurrently review the terms of designation including boundaries within State waters.

#### **IV. Development of a Draft Environmental Impact Statement**

In accordance with the NMSA, NOAA must draft an environmental impact statement (EIS) pursuant to NEPA when designating a new national marine sanctuary. The input gathered during the public scoping process is fundamental to NOAA's development of a DEIS.

##### *A. Purpose and Need for Sanctuary Designation*

The NMSA directs NOAA to identify and designate as national marine sanctuaries areas of the marine and Great Lakes environments that are of special national significance, provide authority for comprehensive and coordinated conservation and management of these marine areas, and protect the resources of these areas. The purpose and need for the proposed action is to consider whether a sanctuary designation in the Lake Erie Quadrangle would fulfill the purposes and policies outlined in section 301(b) of the NMSA, 16 U.S.C. 1431(b), and meet the sanctuary designation standards in section 303 of the NMSA, 16 U.S.C. 1433.

##### *B. Preliminary Description of Proposed Action and Alternatives*

NOAA's proposed action is to consider designating the Lake Erie Quadrangle National Marine Sanctuary in accordance with the sanctuary designation process described in section 304 of the NMSA (16 U.S.C. 1434). Through the public scoping process and as part of the sanctuary designation process, NOAA will develop draft designation documents including a draft sanctuary management plan, proposed sanctuary regulations, and proposed terms of designation. The NEPA process for sanctuary designation will include preparation of a DEIS to consider alternatives and describe potential effects of the sanctuary designation on the human environment. A



DEIS will evaluate a reasonable range of action alternatives that could include different options for management plan goals, sanctuary regulations, and potential boundaries. A DEIS will also consider a No Action Alternative, wherein NOAA would not designate a national marine sanctuary.

*C. Summary of Expected Impacts of Sanctuary Designation*

A DEIS will identify and describe the potential effects of the proposed action and reasonable alternatives on the human environment. Potential impacts may include, but are not limited to, impacts on the area's biological and physical resources, including habitats, plants, birds, fish, and special status species; underwater cultural and historical resources; and human uses and socioeconomics of the area. Based on a preliminary evaluation of the resources listed above, NOAA expects potential positive impacts to the environment from enhanced protection of the area's underwater cultural and historical resources; improved planning and coordination of research, monitoring, and management actions; reduced harmful human activities; and reduced threats and stressors to resources.

*D. Schedule for the Decision-Making Process*

NOAA expects to make a DEIS and other draft documents available to the public by winter 2024. NOAA expects to make a FEIS available to the public by winter 2025. A Record of Decision will be issued no sooner than 30 days after the FEIS is made available to the public, in accordance with 40 CFR 1506.11.

*E. NEPA Lead and Cooperating Agency Roles*

NOAA is the lead Federal agency for the NEPA process for the proposed action. NOAA may invite other Federal agencies, or State, Tribal, or local agencies of similar qualifications to become cooperating agencies in the preparation of the EIS for the proposed action. NEPA regulations specify that a cooperating agency means any Federal agency (and a Tribal, State, or local agency with agreement of the lead agency)

that has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) (40 CFR 1508.1(e)).

*F. Anticipated Permits, Authorizations, and Consultations*

Federal permits, authorizations, or consultations may be required for the proposed action, including consultation or review under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; National Historic Preservation Act (NHPA), 54 U.S.C. 300101 *et seq.*; Executive Order 13175 (*Consultation and Coordination With Indian Tribal Governments*); consistency review under the Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.*; and possibly reviews under other laws and regulations determined to be applicable to the proposed action. To the fullest extent possible, NOAA will prepare a DEIS concurrently and integrate analyses required by other Federal environmental review requirements. A DEIS will list all Federal permits, licenses, and other authorizations that must be obtained in implementing the proposed action. 40 CFR 1502.24.

**V. Consultation Under Section 106 of the National Historic Preservation Act and Executive Order 13175**

This notice confirms that NOAA will coordinate its responsibilities under section 106 of the NHPA during the sanctuary designation process and is soliciting public and stakeholder input to meet section 106 compliance requirements. The NHPA section 106 consultation process specifically applies to any agency undertaking that may affect historic properties. Pursuant to 36 CFR 800.16(l)(1), historic properties include: “any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian Tribe or Native Hawaiian organization that meet the National Register criteria.”

This notice also confirms that, with respect to the proposed sanctuary designation process, NOAA will fulfill its responsibilities under Executive Order 13175, “Consultation and Coordination with Indian Tribal Governments,” and NOAA’s implementing policies and procedures. Executive Order 13175 requires Federal agencies to establish procedures for meaningful consultation and coordination with Tribal officials in the development of Federal policies that have Tribal implications. NOAA implements Executive Order 13175 through NOAA Administrative Order 218-8 (Policy on Government-to-Government Consultation with Federally-Recognized Indian Tribes and Alaska Native Corporations), and the NOAA Tribal Consultation Handbook. Under these policies and procedures, NOAA offers government-to-government consultation at the earliest practicable time it can reasonably anticipate that a proposed policy or initiative may have Tribal implications.

**Authority:** 16 U.S.C. 1431 *et seq.*; 42 U.S.C. 4321 *et seq.*; 40 CFR 1500-1508 (NEPA Implementing Regulations); NOAA Administrative Order 216-6A.

**John Armor,**

*Director, Office of National Marine Sanctuaries,*

*National Ocean Service,*

*National Oceanic and Atmospheric Administration.*

[FR Doc. 2023-10644 Filed: 5/18/2023 8:45 am; Publication Date: 5/19/2023]